

§ 110-136.8. Notice to payor; payor's responsibilities.

(a) Contents of notice. Notice to a payor of his obligation to withhold shall include information regarding the payor's rights and responsibilities, the amount of disposable income attributable to that payor on which that withholding is based, the penalties under this section, and the maximum percentages of disposable income that may be withheld as provided in G.S. 110-136.6.

(b) Payor's responsibilities. A payor who has been properly served with a notice to withhold is required to:

- (1) Withhold from the obligor's disposable income and, within 7 business days of the date the obligor is paid, send to the State Child Support Collection and Disbursement Unit the amount specified in the notice and the date the amount was withheld, but in no event more than the amount allowed by G.S. 110-136.6; however, if a lesser amount of disposable income is available for any pay period, the payor shall either:
 - a. Compute, and send the appropriate amount to the State Child Support Collection and Disbursement Unit, using the percentages as provided in G.S. 110-136.6; or
 - b. Request the initiating party to inform the payor of the proper amount to be withheld for that period;
- (2) Continue withholding until further notice from the IV-D agency, the clerk of superior court, or the State Child Support Collection and Disbursement Unit;
- (3) Withhold for child support before withholding pursuant to any other legal process under State law against the same disposable income;
- (4) Begin withholding from the first payment due the obligor in the first pay period that occurs 14 days following the date the notice of the obligation to withhold was served on the payor;
- (5) Promptly notify the obligee in a IV-D case, or the clerk of superior court or the State Child Support Collection and Disbursement Unit in a non-IV-D case, in writing:
 - a. If there are one or more orders of child support withholding for the obligor;
 - a1. If there are one or more orders of alimony or postseparation support withholding for the obligor;
 - b. When the obligor terminates employment or otherwise ceases to be entitled to disposable income from the payor, and provide the obligor's last known address, and the name and address of his new employer, if known;
 - c. Of the payor's inability to comply with the withholding for any reason; and
- (6) Cooperate fully with the initiating party in the verification of the amount of the obligor's disposable income.

(c) Change in obligor's employment. If the obligor changes employment within the State when withholding is in effect, the requirement for withholding shall continue, and

- (1) In a IV-D case, the IV-D obligee shall make any necessary adjustments to the withholding, notify the obligor and his new employer in accordance with this section, and file a copy of the adjusted withholding with the clerk of superior court;
- (2) In a non-IV-D case, the clerk shall serve a notice of obligation to withhold according to the terms of the withholding order on the new employer and on

the obligor; if the obligor or payor gives notice that an adjustment to the withholding order, other than the change in payor, is needed, the matter shall be scheduled for hearing before a child support hearing officer or district court judge who shall make any necessary adjustments to the withholding.

(d) The payor may combine amounts withheld from obligors' disposable incomes in a single payment to the State Child Support Collection and Disbursement Unit if the payor separately identifies by name and case number the portion of the single payment attributable to each individual obligor and the date that each payment was withheld from the obligor's disposable income.

(e) Prohibited conduct by payor; civil penalty. Notwithstanding any other provision of law, when a court finds, pursuant to a motion in the cause filed by the initiating party joining the payor as a third party defendant, with 30 days notice to answer the motion, that a payor has willfully refused to comply with the provisions of this section, such payor shall be ordered to commence withholding and shall be held liable to the initiating party for any amount which such payor should have withheld, except that such payor shall not be required to vary the normal pay or disbursement cycles in order to comply with these provisions.

A payor shall not discharge from employment, refuse to employ, or otherwise take disciplinary action against any obligor solely because of the withholding. When a court finds that a payor has taken any of these actions, the payor shall be liable for a civil penalty. For a first offense, the civil penalty shall be one hundred dollars (\$100.00). For second and third offenses, the civil penalty shall be five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively. Any payor who violates any provision of this paragraph shall be liable in a civil action for reasonable damages suffered by an obligor as a result of the violation, and an obligor discharged or demoted in violation of this paragraph shall be entitled to be reinstated to his former position. The statute of limitations for actions under this subsection shall be one year pursuant to G.S. 1-54.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(f) Any payor who withholds the sum provided in any notice or order to the payor shall not be liable for any penalties under this section. (1985 (Reg. Sess., 1986), c. 949, s. 2; 1987, c. 589, s. 2; 1991, c. 541, ss. 1, 2; 1997-433, s. 6; 1997-465, s. 27; 1998-17, s. 1; 1998-176, s. 7; 1998-215, s. 76; 1999-293, ss. 19, 20.)